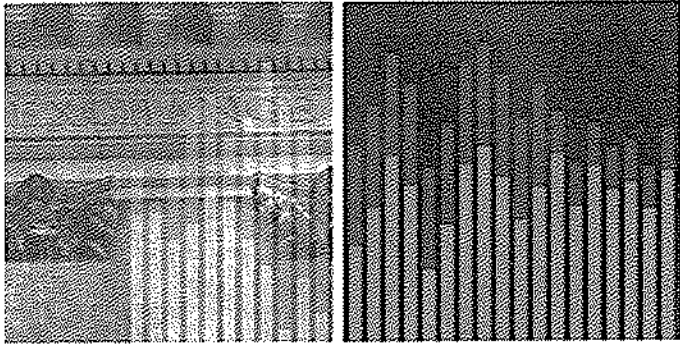


# **Exhibit 15**



2007 Year End Update

## Recent Trends in Shareholder Class Actions: Filings Return to 2005 Levels as Subprime Cases Take Off; Average Settlements Hit New High

Stephanie Plancich, Ph.D.

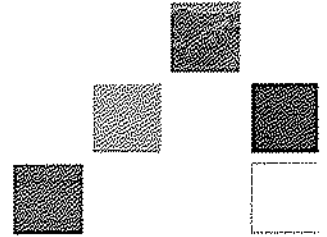
Brian Saxton

Svetlana Starykh



Despite some well-publicized speculation that filings had moved to a permanently lower level, the 2005-2006 decline in filings has not continued. In fact, as we anticipated ... the trend has reversed and filings are back to 2005 levels.





## **Recent Trends in Shareholder Class Actions: Filings Return to 2005 Levels as Subprime Cases Take Off; Average Settlements Hit New High**

Stephanie Planchich, Ph.D., Brian Saxton, Svetlana Starykh<sup>1</sup>

December 2007

### **Introduction**

Shareholder class action filings increased in 2007 after a marked decline that began in the second half of 2005 and continued through 2006. Through December 15, 2007, there were 198 cases, on pace to end the year with over 200 federal filings.

Thus, despite some well-publicized speculation that filings had moved to a permanently lower level, the 2005-2006 decline in filings has not continued. In fact, as we anticipated based on our mid-year review of filings from January through June, the trend has reversed and filings are back to 2005 levels.

This growth in filings has been driven at least in part by litigation related to subprime lending: in 2006, there were no subprime-related shareholder class actions, but 38 such cases were filed between February 8, 2007 and December 15, 2007.

At the same time, average settlements have also increased: the average settlement paid to resolve a shareholder class action case over the 2002-2007 period has been \$24.4 million, rising to a peak of \$33.2 million in 2007. While much lower than the average, the median settlement also increased to a new high in 2007, reaching almost \$10 million.<sup>2</sup>

### Federal Filings Begin to Rise After Dip in 2006

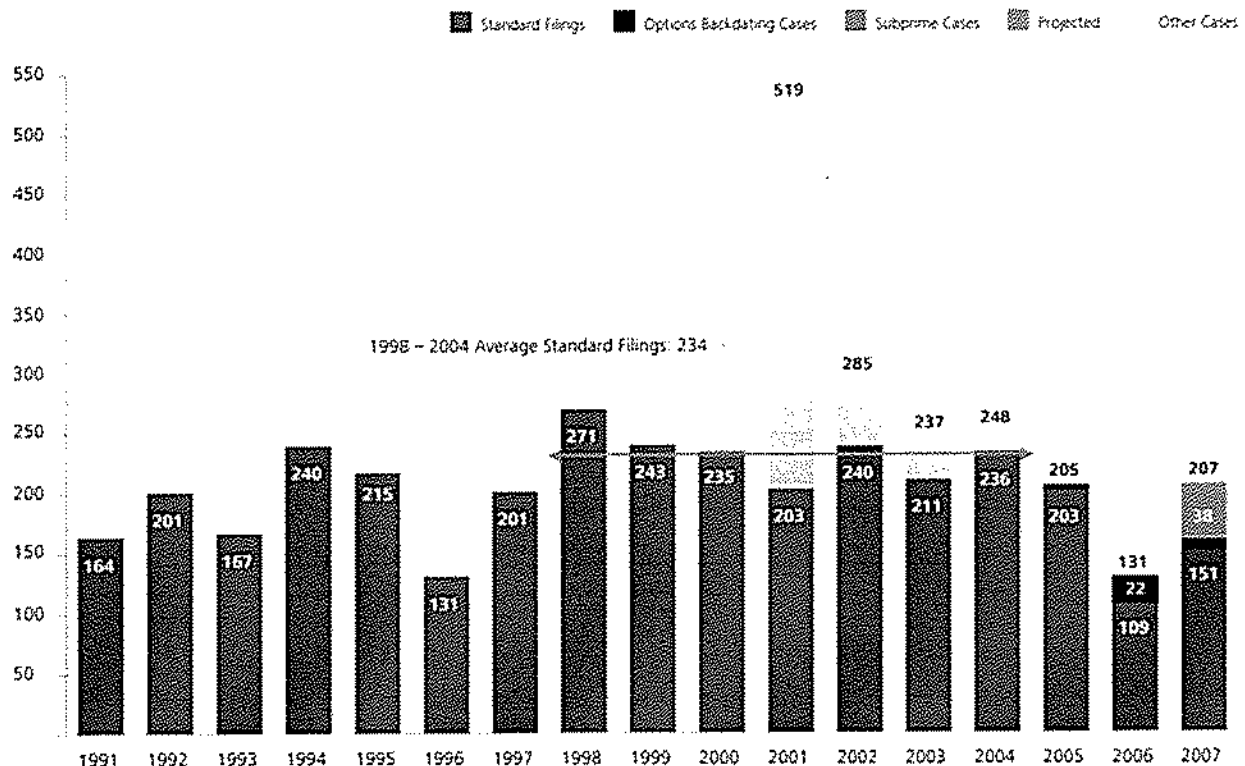
From 1997 through 2005, there were over 200 federal filings each year. Then, in the second half of 2005, this pattern started to change. By 2006, annual filings had reached their lowest level in more than a decade, dropping to only 131 filings, even including the 22 options backdating cases filed during the year. This drop has not persisted into 2007, however. Instead, the trend began to reverse in the first half of the year, with 75 federal filings in the first six months, and an additional 123 filings from July to mid-December. At this pace, we project that there will be 207 federal filings for full-year 2007, slightly above the 2005 level, but still below the 1998-2004 average standard filing level of 234.<sup>1</sup>

This increase in filings in 2007 was fuelled at least in part by an increase in subprime lending-related cases. The first subprime-related shareholder class action was filed on February 8, 2007. By December 15, 2007, the total number of subprime shareholder class actions filed had more than quadrupled compared to the first half of 2007. As more firms continue to be affected by subprime-related bad news, more of these cases are likely to be filed in the coming months.

Our projection of 207 shareholder class action filings for full-year 2007 is approximately 58% higher than the number of 2006 federal filings. While some of this growth is due to the increase in cases related to subprime lending, standard filings alone increased by almost 40% from the 2006 level.

### Federal Filings

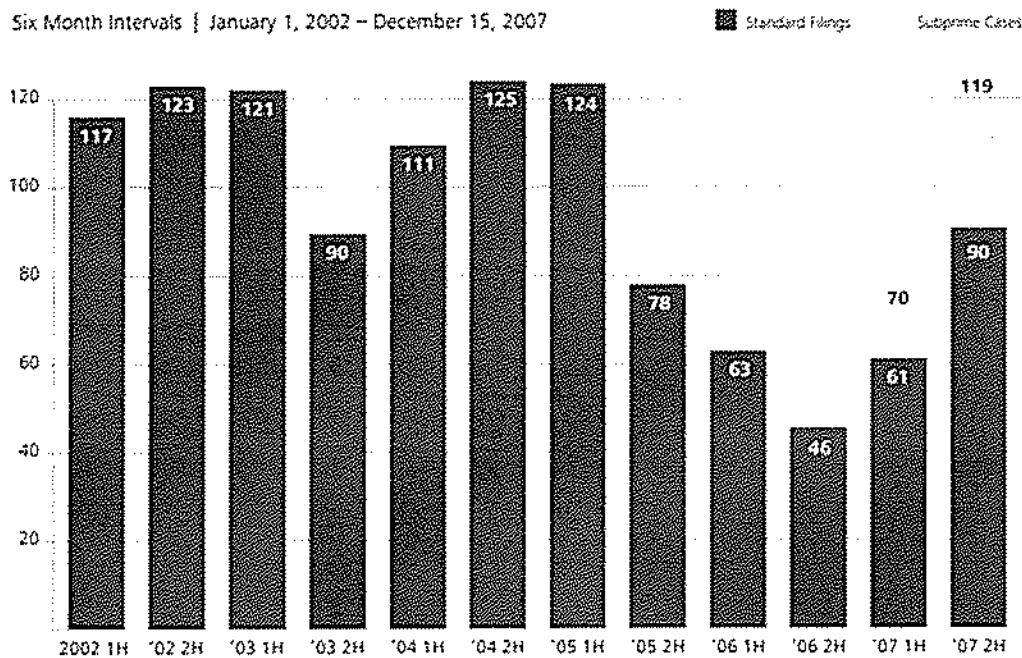
January 1, 1991 – December 15, 2007 and December 16 – 31, 2007 Projected



Note: Other Cases include IPO laddering, mutual fund market timing, and analyst cases

**Standard and Subprime Federal Filings**

Six Month Intervals | January 1, 2002 – December 15, 2007

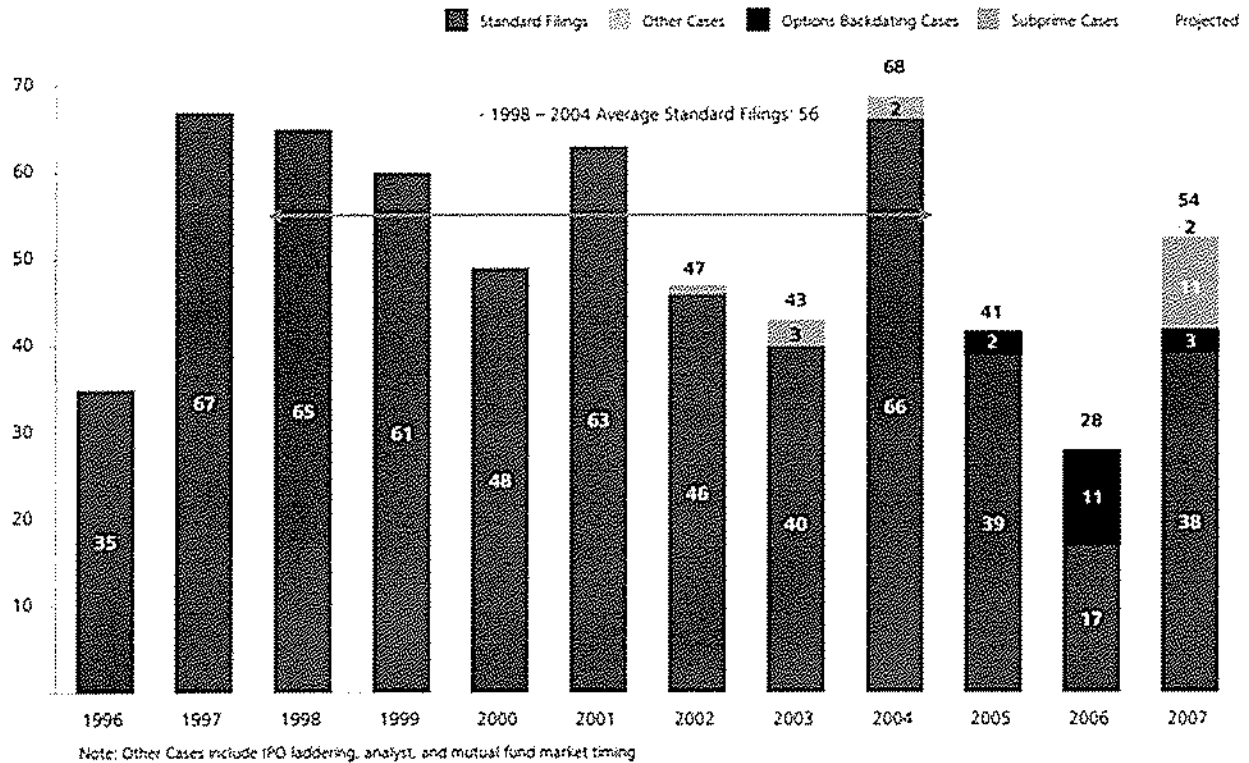


In analyzing filing trends through June 30, 2007 in our mid-year review, we noted that filings in the Ninth Circuit dropped sharply in 2006, but that this trend had reversed in the first half of 2007. We hypothesized that the Ninth Circuit, which had led the downward trend in filings, might be a leading indicator of an increase in the rate of filings. Data from July to mid-December 2007 are consistent with that hypothesis: we project a total of 54 Ninth Circuit cases for the year, almost twice the amount as in 2006, and close to the 1998-2004 average of 56 filings per year.

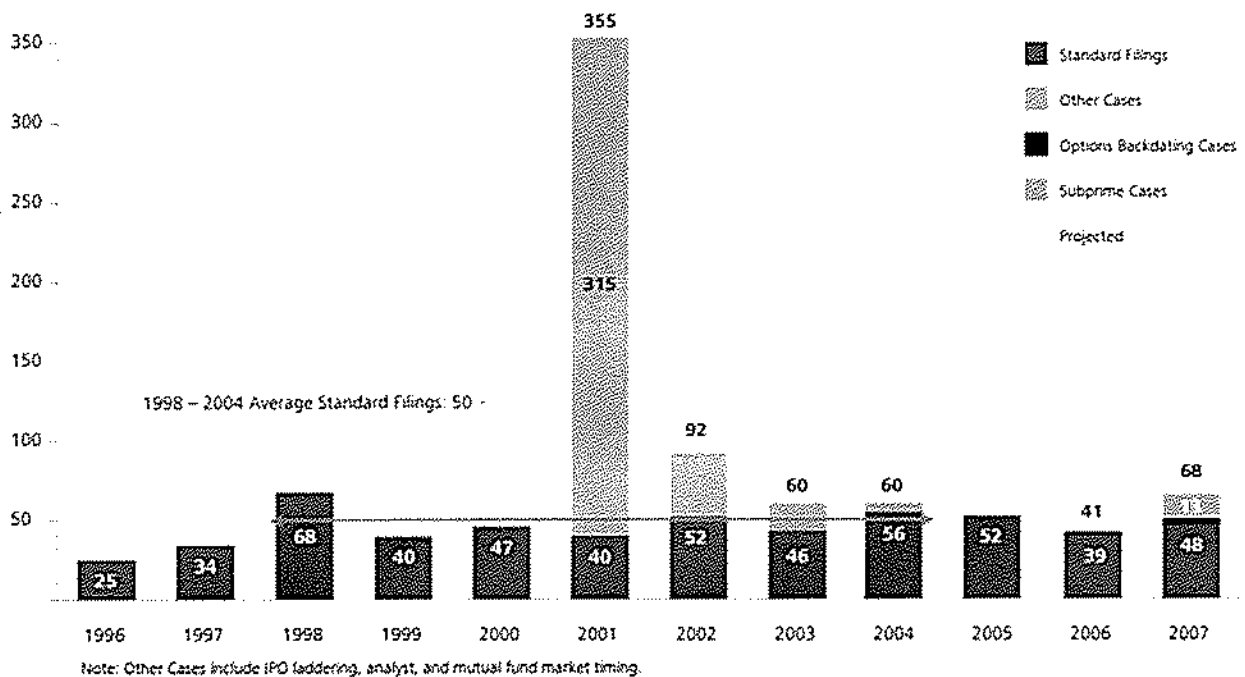
The first subprime-related shareholder class action was filed on February 8, 2007. By December 15, the total number of subprime shareholder class actions had more than quadrupled compared to the first half of 2007.

**Ninth Circuit Federal Filings**

January 1, 1996 – December 15, 2007 and December 16 – 31, 2007 Projected

**Second Circuit Federal Filings**

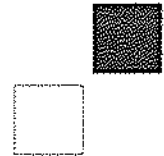
January 1, 1996 – December 15, 2007 and December 16 – 31, 2007 Projected



Moreover, this growth in Ninth Circuit filings has been accompanied by rebounds in some other Circuits: importantly, Second Circuit filings are on pace to exceed filing levels from each of the last four years, as well as the Circuit's 1998-2004 standard filings average.

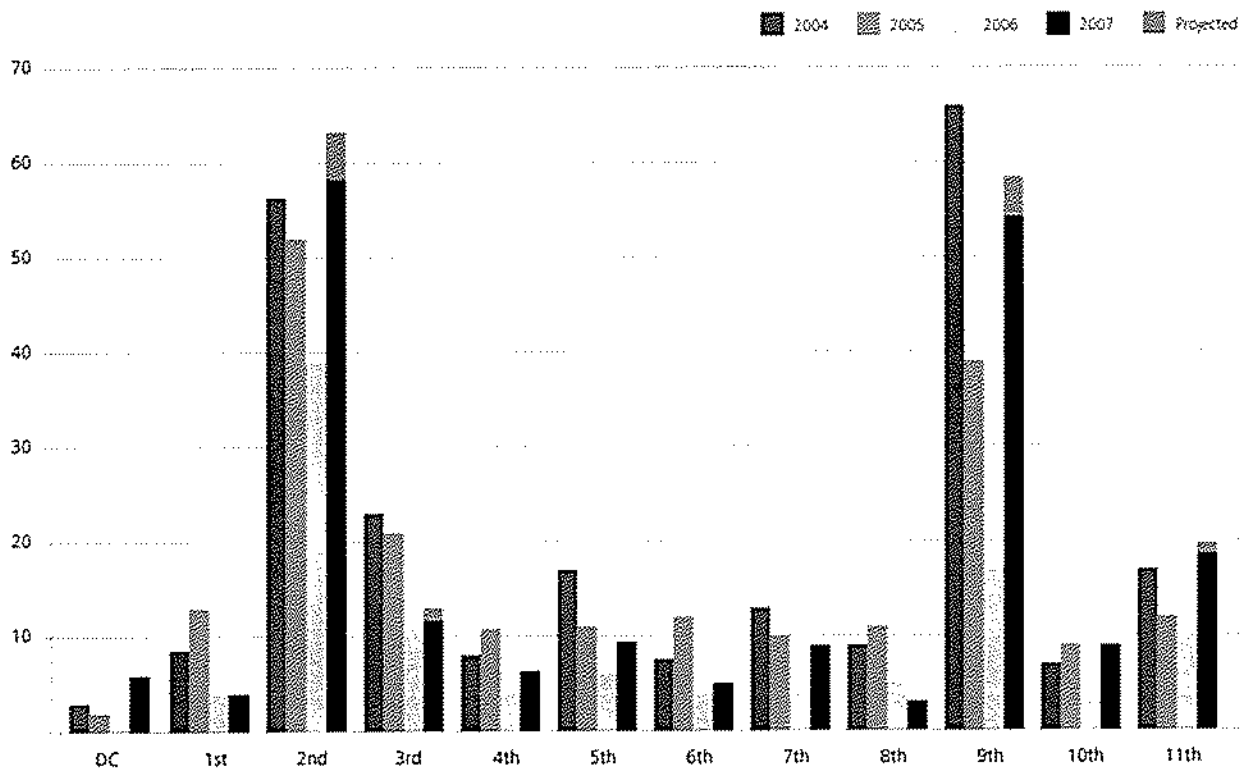
Also, through December 15, 2007 filings are already higher than 2006 federal filing levels in all but the First and Eighth Circuits. Subprime cases have been filed in at least seven of the 11 Circuits, plus the DC Circuit, but are concentrated in the Second and Ninth Circuits.

Filings are  
already higher  
than 2006  
levels in all but  
two Circuits.



### Standard Federal Filings by Circuit

January 1, 2004 – December 15, 2007 and December 16 – 31, 2007 Projected



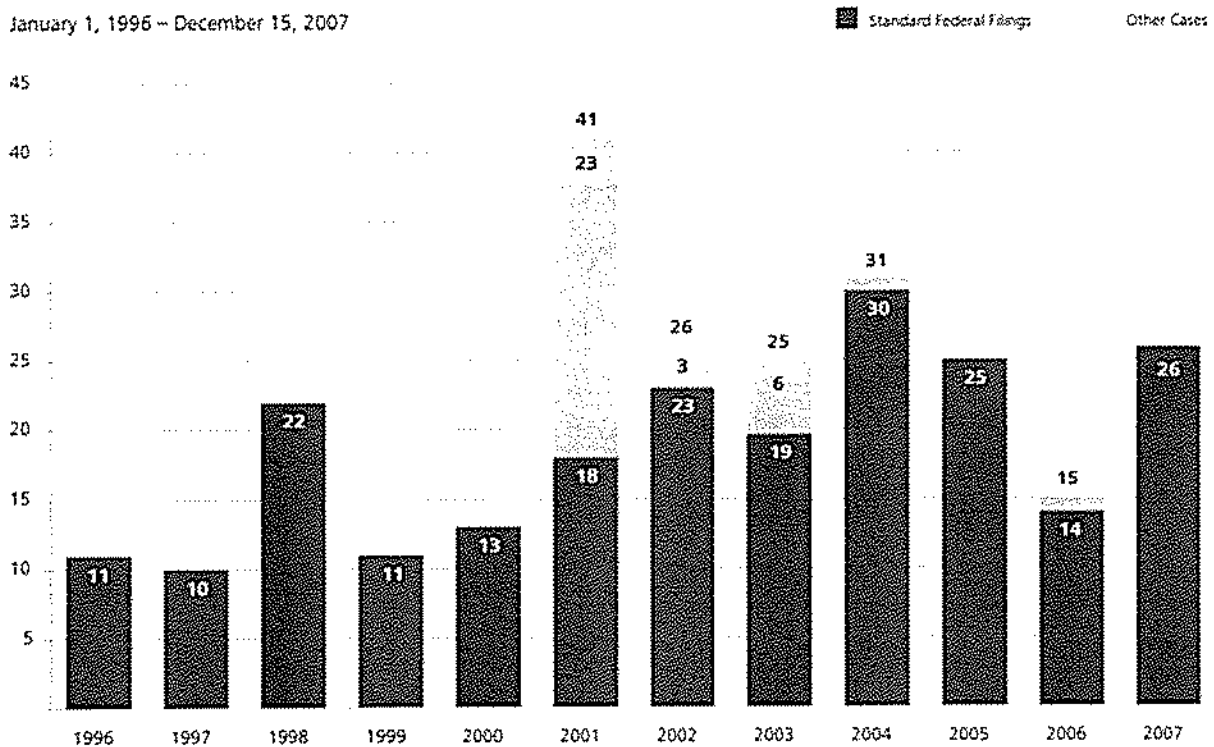


Not only has the increase in filings been observed across most of the Federal Circuits, but filings have increased against both US and non-US companies as well.<sup>4</sup>

Filings against non-US companies dropped to 15 in 2006, but are on pace to exceed the 26 cases filed in 2007, a total that is already 73.3% higher than in 2006.

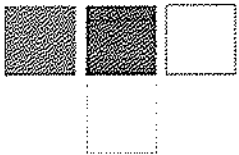
#### Federal Filings Against Non-US Companies

January 1, 1996 – December 15, 2007



Notes: Other Cases include options backdating, mutual fund market timing, IPO ladder, and analyst cases.

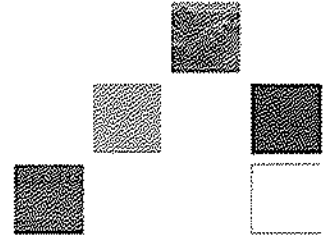
Filings against non-US companies dropped to 15 in 2006, but have already increased by 73.3% in 2007.



### Dismissal Rates and Resolutions

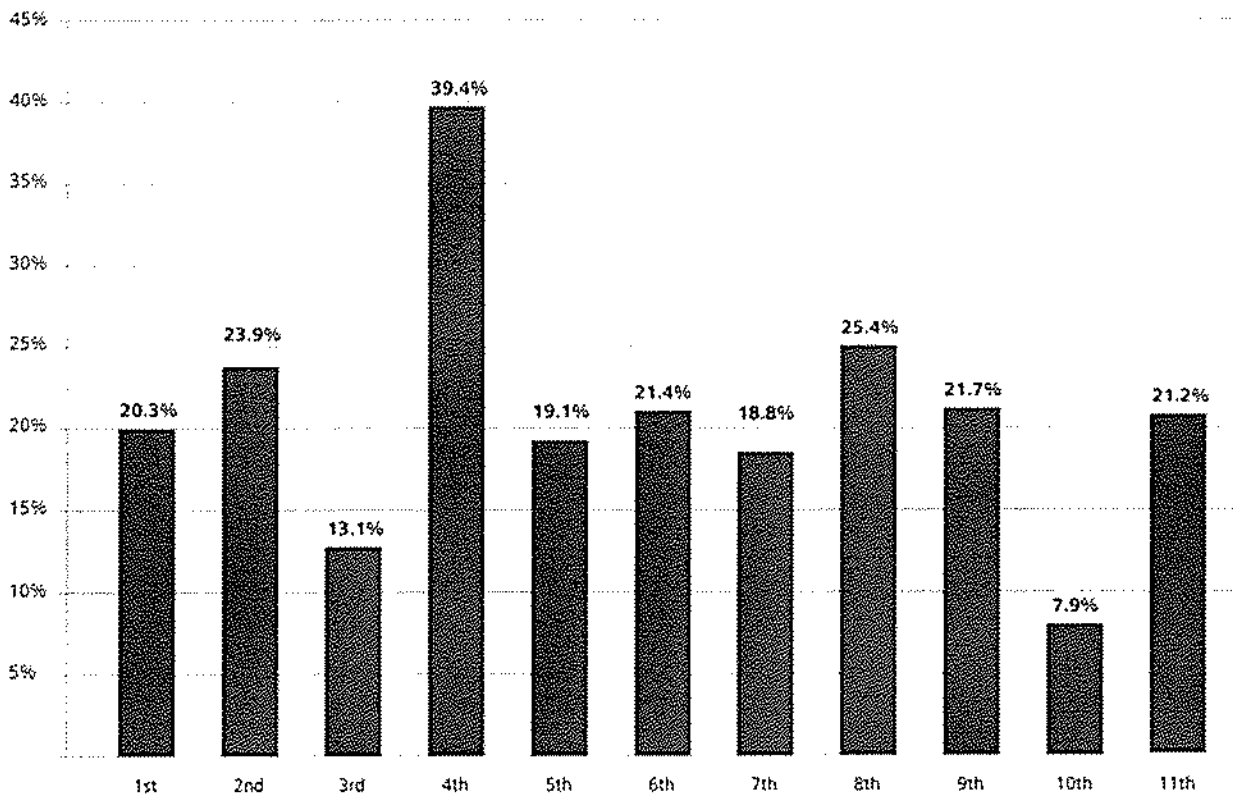
Post-PSLRA dismissal rates have been consistently higher than pre-PSLRA rates.<sup>5</sup> For cases filed between 2001 and 2005, dismissals are 40.4% of dispositions, more than twice the 19.4% rate for cases filed between 1991 and 1995. (Note that our post-PSLRA dismissal rate may be slightly overstated, as it may include some dismissals without prejudice that will be reversed by amended and better-pled complaints or dismissals with prejudice that will be successfully appealed and reinstated.)

Again, as in prior years, we see variation in the patterns of dismissal rates by Circuit. If we compare the percentage of cases that are dismissed within two years of filing, the Fourth Circuit continues to have the highest dismissal rate (39.4%). Dismissals in the Third and Tenth Circuits are much less frequent. As mentioned above, most shareholder class actions are filed in the Second and the Ninth Circuits; these Circuits have similar two-year dismissal rates of above 21%.<sup>6</sup>



### Dismissal Rates by Circuit Within Two Years of Filings

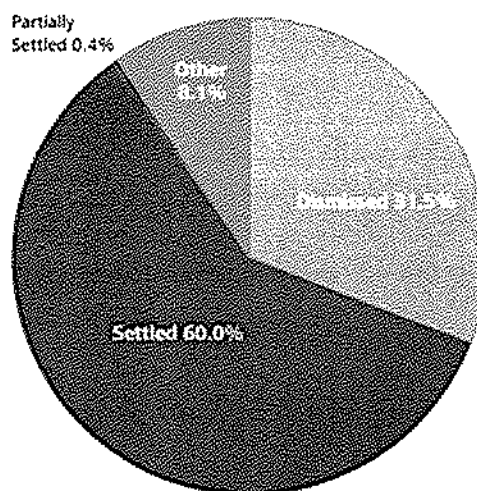
Filing Date December 15, 2000 – December 15, 2005



Note: Because it is not uncommon for judges to take up to two years from the filing date to rule on motions to dismiss, it would be premature to evaluate dismissal rates of cases filed after December 15, 2005.

Status of 235 Federal Shareholder Class Actions  
Filed in 2000

As of December 15, 2007



We examined the current status of the 235 federal shareholder class actions filed in 2000.

In the seven years since these cases were filed, over 90% have reached some kind of resolution. 60% of these cases have reached final settlement ... and over 31% have been dismissed.



To get some additional understanding of the "life" of a shareholder class action case, we examined the current status of the 235 federal shareholder class actions filed in 2000. In the seven years since these cases were filed, over 90% have reached some kind of resolution. To date, approximately 60% of these cases have reached final settlement and another 0.4% have reached partial settlements. 31.5% of the cases filed in 2000 have been dismissed. The remaining 8.1% of cases are either still active, or were reinstated or abandoned.

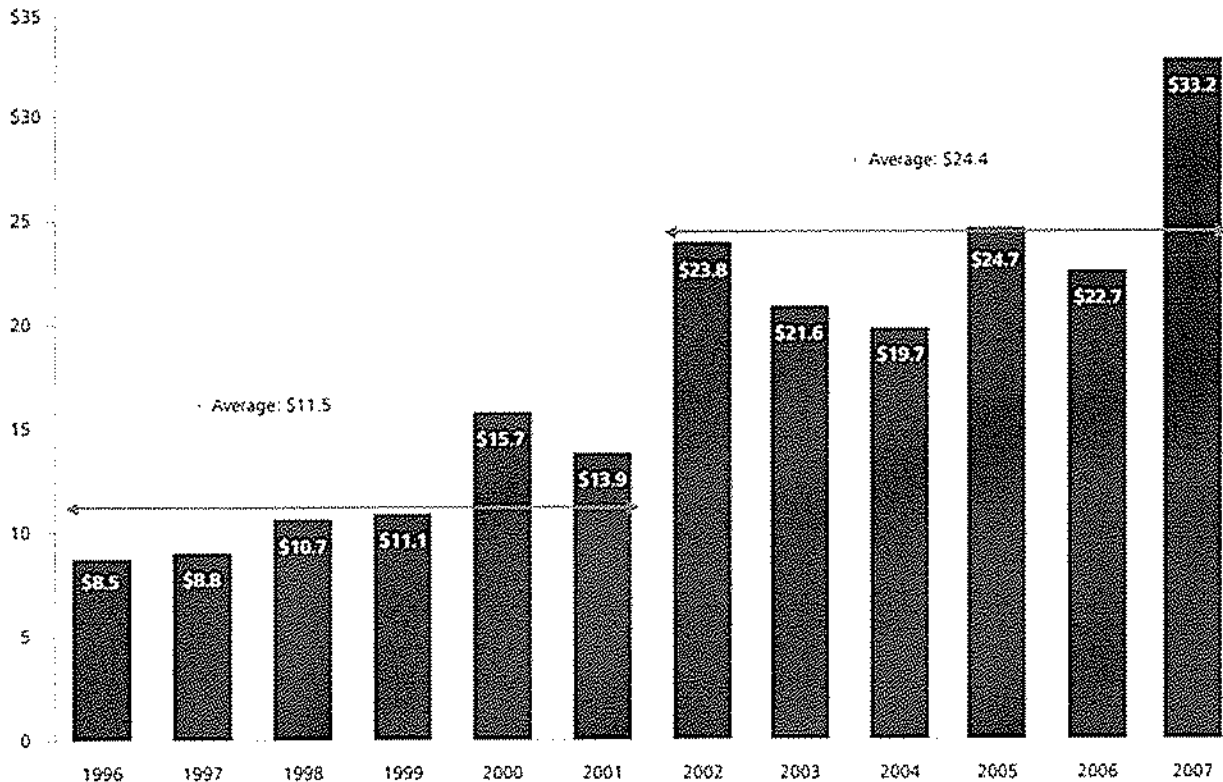
#### Average Settlements Hit New High

At the same time filings have been trending back up, average settlements have also been increasing. Comparing the period from 2002 through 2007, there has been a notable increase in average settlement values: from 1996 to 2001, the average settlement was \$11.5 million, but this has increased to \$24.4 million over the later period.

In 2007, a particularly sharp increase in the average settlement has occurred. If we include all settlements that have been finalized or are proposed to be finalized by December 31, 2007 in our calculation, the average 2007 settlement is \$33.2 million, a jump from \$22.7 million in 2006.

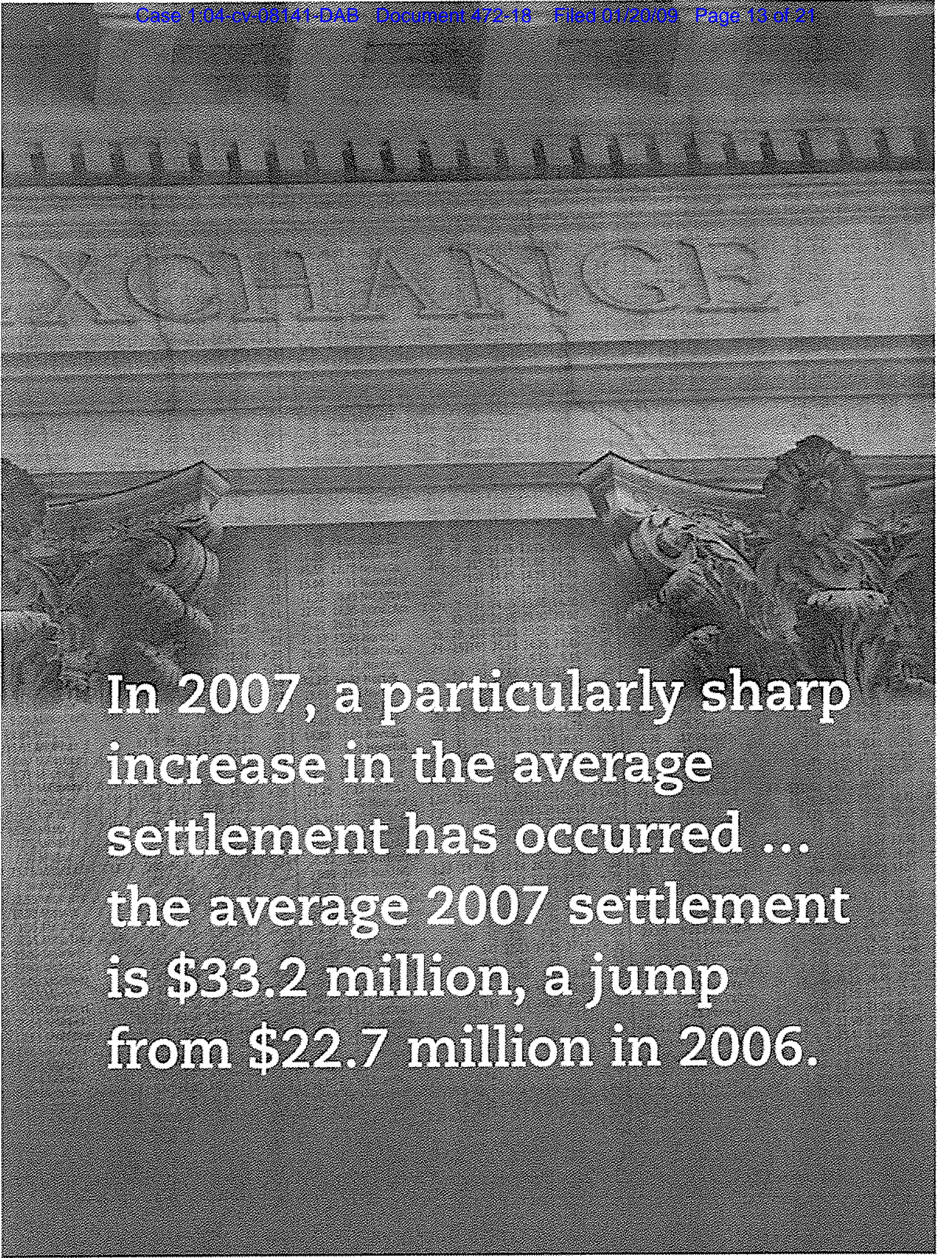
#### Average Settlement Value (\$MM) Excluding Settlements Over \$1 Billion

January 1, 1996 – December 31, 2007



Note: Averages do not include partial or tentative settlements. The average settlement values exclude the 2000 Cendant, 2005 WorldCom, and the 2006 Royal Ahold, AOL Time Warner, and two Nortel Networks final settlements.



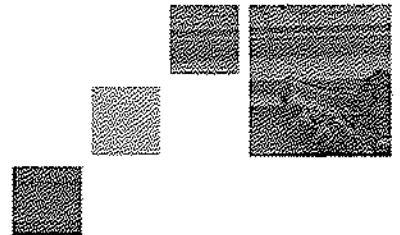


In 2007, a particularly sharp increase in the average settlement has occurred ... the average 2007 settlement is \$33.2 million, a jump from \$22.7 million in 2006.



Note that the averages described above do not include the large "mega-settlements" over \$1 billion: nine settlements of all time fall into this category, and most of these have settled in the past couple of years.

If we include these huge settlements in our calculations of averages, the 2002-2007 average settlement value rises to \$40.2 million. Moreover, if the large pending partial settlements that exceed \$1 billion had been finalized in 2007 and incorporated into the average value calculations—including the \$1 billion McKesson, the \$7 billion Enron settlements, and the \$3 billion Tyco settlement—the 2002-2007 average would have risen to \$54.7 million.



### Top Ten Shareholder Class Action Settlements

Ranking	Company	Year	Settlement Value (\$MM)
1	Enron Corp. *	2007	\$7,231
2	WorldCom, Inc.	2005	6,156
3	Cendant Corp. <sup>†</sup>	2000	3,561
4	Tyco International, Ltd. *	2007	3,200
5	AOL Time Warner Inc.	2006	2,650
6	Nortel Networks (I)	2006	1,143
7	Royal Ahold, NV	2006	1,100
8	Nortel Networks (II)	2006	1,074
9	McKesson HBOC Inc. *	2007	1,033
10	Lucent Technologies, Inc.	2003	517

\* Indicates a partial settlement including only some defendants.

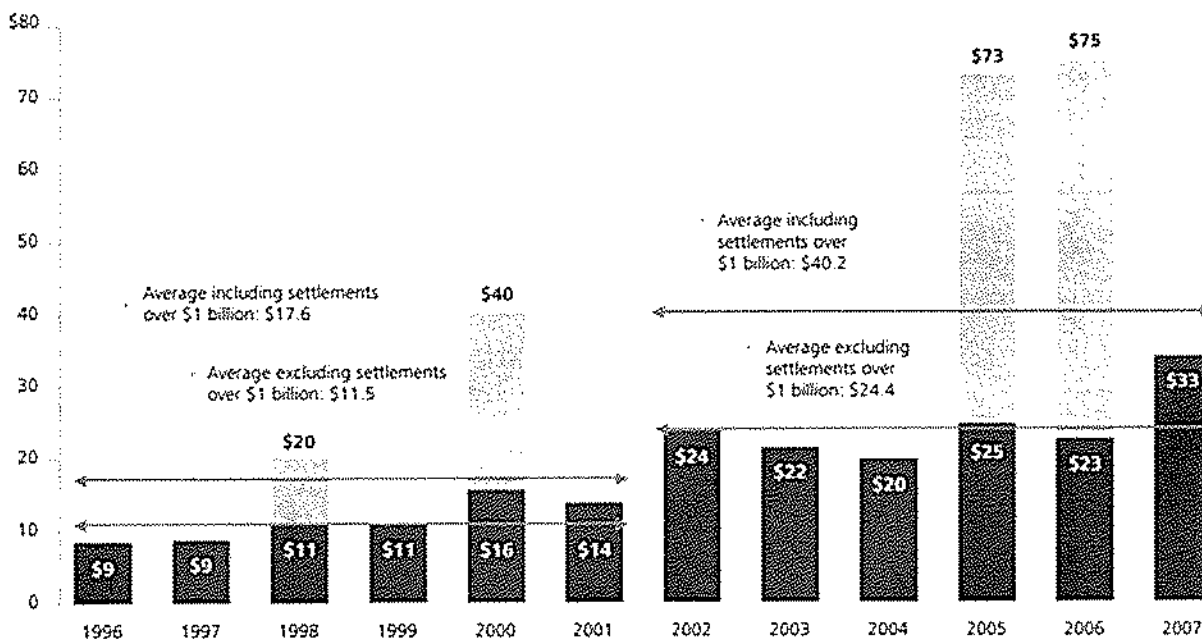
<sup>†</sup> Includes the \$374 million Cendant PRIOS settlement.

Note: We excluded a partial settlement with 298 defendant issuers in IPO Securities Litigation from our list of top ten shareholder class action settlements, because on June 25, 2007 Judge Shira A. Scheindlin terminated this settlement.<sup>1</sup>



**Average Settlement Value (\$MM) Including Settlements Over \$1 Billion**

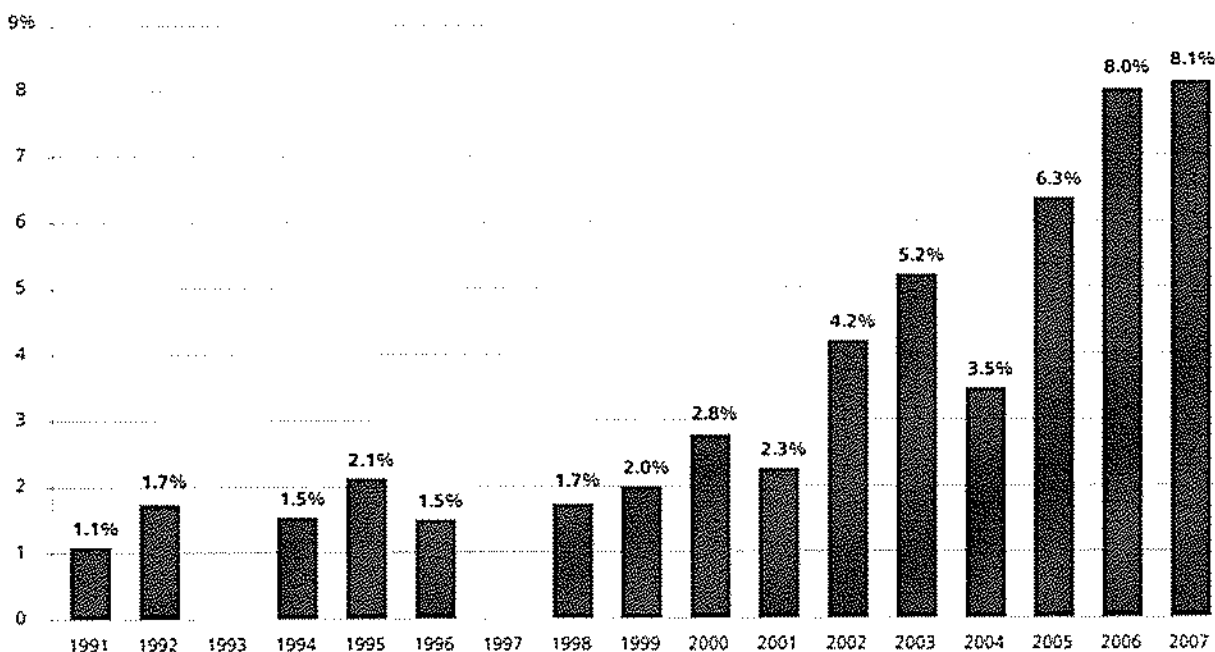
January 1, 1996 – December 31, 2007



Notes: Averages do not include partial or tentative settlements. Average settlement shown with and without final settlements over \$1 billion. The 2000 Cendant, 2005 WorldCom, and the 2006 Royal Ahold, AOL Time Warner, and two Nortel Networks settlements exceed \$1 billion.

**Proportion of Mega-Settlements By Year**

January 1, 1996 – December 31, 2007



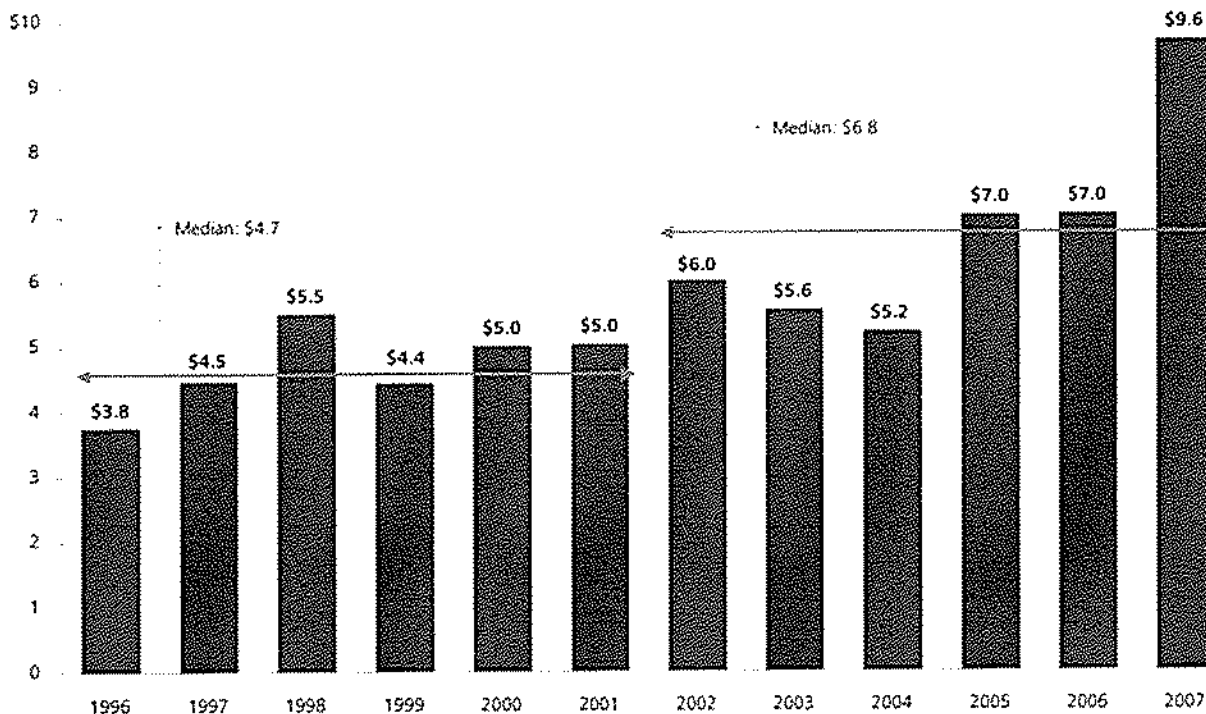
Note: We define mega-settlements to be those exceeding \$100 million.

These huge settlements have been an increasing percentage of all settlements over the past few years. If we define "mega-settlements" as all settlements greater than \$100 million, we can see that mega-settlements have been steadily growing as a percentage of all settlements over the past decade. Before 2000, no more than one or two percent of settlements fell into this category; by 2007, 8.1% of all settlements were more than \$100 million.

Although mega-settlements drive up average values, it is not just the high end of the settlement distribution that is increasing. The annual median settlement amount—that is, the settlement at the 50th percentile—has also been gradually increasing. The median settlement is still much lower than the mean, an average of \$6.8 million over the 2002-2007 period. In 2007, the median reached an all-time high of \$9.6 million.

### Median Settlement Value (\$MM)

January 1, 1996 – December 31, 2007



What has been driving this increase in settlement values?

We find that investor losses, which can be calculated using publicly-available data, historically have been the single most powerful determinant of settlements, explaining approximately 50% of their variation.<sup>8</sup>

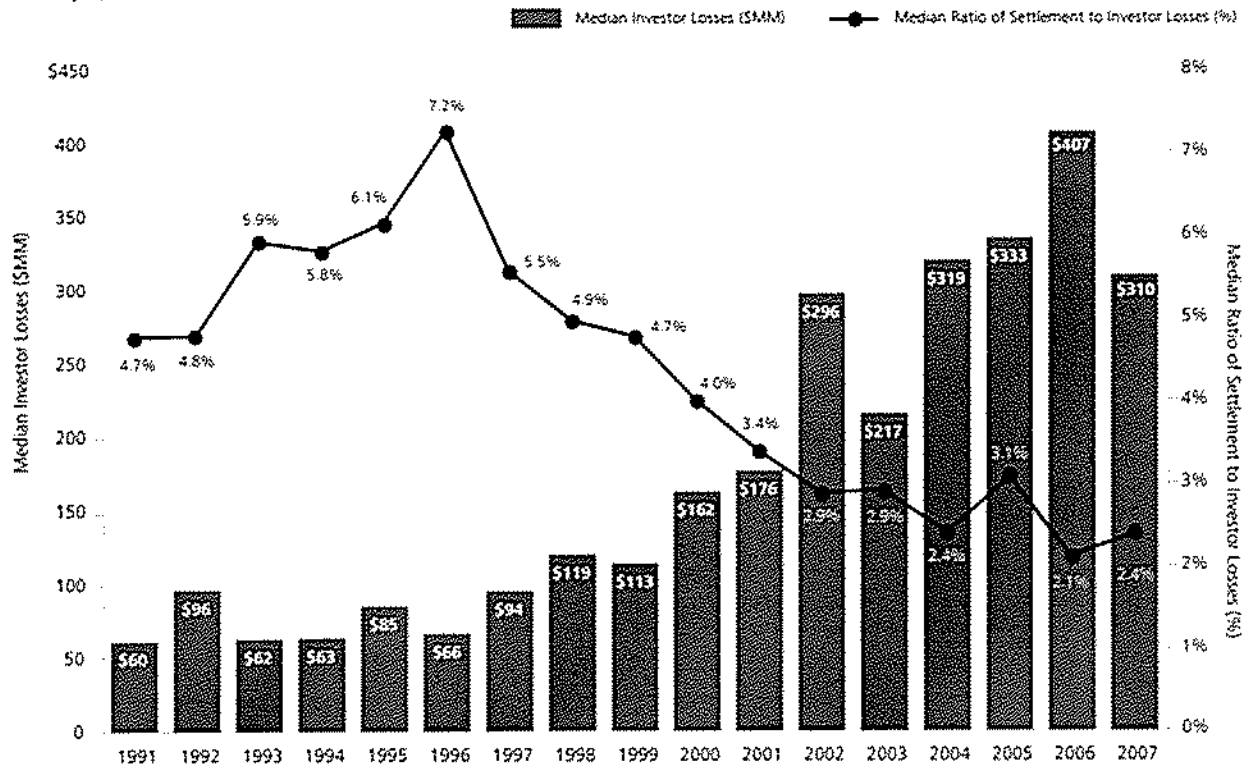
While investor losses are strongly correlated with settlement amounts, the two do not move together at a one-to-one ratio. Instead, as investor losses increase, settlements increase at a much lower rate: a 1.0% increase in investor losses results in a 0.4% increase in the size of the expected settlement.<sup>9</sup> For example, holding everything else constant, a \$100 million investor loss would result in an expected settlement of 5.1% of its value, while a case with \$1 billion in investor losses would have a much lower relative expected settlement of only 1.1% of the loss value.

Average investor losses have grown dramatically over the last decade, in tandem with increasing average settlement values. To date, for cases settling in 2007, average losses are approximately \$1.75 billion.

Selected Investor Loss (\$MM)	Settlement as Percent of Investor Loss
\$ 100	5.1%
\$ 300	2.5%
\$ 1,000	1.1%

#### As Investor Losses Have Soared, the Median Percent of Such Losses Paid Has Declined

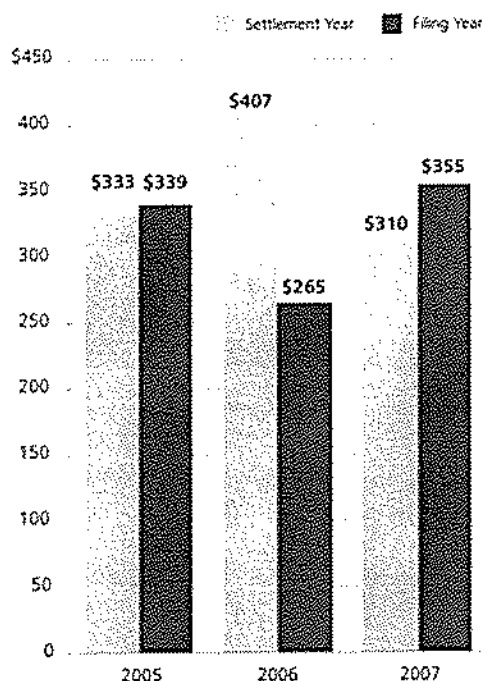
January 1, 1996 – December 31, 2007





Median investor losses have also been rising, hitting a peak of \$407 million for cases settling in 2006. In 2007, median losses were \$310 million, slightly lower than in 2004 and 2005. However, median investor losses have not grown at the same pace as median settlement values, so the ratio of settlements to losses is lower in 2007 than it was a decade ago.

**Median Investor Losses (\$MM) by Filing Year and Settlement Year**



#### Conclusion:

##### Looking Forward into 2008 and Beyond

With filings climbing in 2007 following their dip in 2006, shareholder class action litigation remains an active area. Subprime lending cases are already springing up across several Federal Circuits. As the crisis in the credit markets continues to deepen and the market for subprime mortgages continues to suffer accordingly, more litigation is likely to follow.

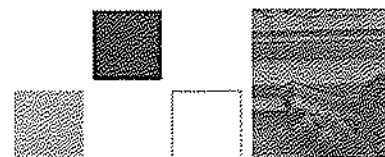
As these recently filed cases proceed through the litigation process, will they result in settlements as high as the averages observed in 2007? For the most part, it is too early to tell how new filings ultimately will be resolved. To get a possible preview, we have looked at some characteristics of recent filings in comparison to recent settlements.

One statistic we have examined is investor losses.

Median investor losses for cases settled in 2007 were \$310 million, and median investor losses on cases filed through December 15, 2007 were \$355 million, the highest in the three-year period. This is a signal that the settlements associated with these new filings might remain high.

On the other hand, in 2007, the percentage of cases filed with accounting allegations fell to 33% from around 50% in the prior two years. Historically, accounting allegations have been significantly correlated with higher settlement values.

As we move into 2008, tracking these and other characteristics of new filings may help us predict settlement values in years to come.



## End Notes

- 1 This edition of NERA's research on recent trends in shareholder class action litigation expands on previous work by our colleagues Lucy Allen, Elaine Buckberg, Frederick C. Dunbar, Todd Easter, Vinita M. Juneja, Denise N. Martin, Ron Miller, and David I. Tabak. We gratefully acknowledge their contribution to previous editions as well as this current version. In addition, the authors thank Carlos Soto, Steven D. Towler, and Joradanka Visokomogitsa for further assistance. These individuals receive credit only for improving this paper; all errors and omissions are ours.

This study includes data on shareholder class action federal filings and dismissals through December 15, 2007 and, unless otherwise noted, settlements with all defendants that have the final settlement date on or before December 31, 2007.

- 2 Unless otherwise indicated, settlement year is considered to be the year when the settlement with all defendants is finalized and approved by the Court.
- 3 The post-PSLRA average is calculated for the period from 1998 to 2005, and therefore excludes 1996 and 1997. A large drop in federal filings occurred in those years as plaintiffs may have filed in state courts to avoid the restrictions of PSLRA.

Standard federal filings are defined to exclude analyst, insider, mutual fund market timing, options backdating, and subprime cases, which are considered one-time litigation events. In 2006, standard filings dropped to 109 but through mid-December 2007, there have been 151 standard cases filed. We project 158 standard filings for the full-year 2007.

- 4 Non-US companies are defined as those that are not domiciled in the United States.

- 5 Our dismissal statistics include summary judgments but exclude partial dismissals.

- 6 Note that these rates are lower than the 40.4% dismissal rate for cases filed between 2001 and 2005, cited above as the overall dismissal rate because they only include dismissals within two years of filing.

- 7 Source: CIVIL DOCKET FOR CASE # 1:01-cv-03857-SAS, record dated 6/28/07 and entered 7/23/07.

- 8 We use investor losses as a proxy for the damages estimates presented by plaintiffs' side prior to settlement because we generally do not have access to the actual claims made by plaintiffs in each case.

- 9 The relationship between investor losses and settlements has been estimated from NERA's settlement prediction model, controlling for other case characteristics. This model explains over 60% of the variation in settlements, using data on more than 700 settled cases filed after January 1, 1996 through June 30, 2007. See NERA's September 2007 publication, "Recent Trends in Shareholder Class Action Litigation: Filings Stay Low and Average Settlements Stay High—But Are These Trends Reversing?" for more details.



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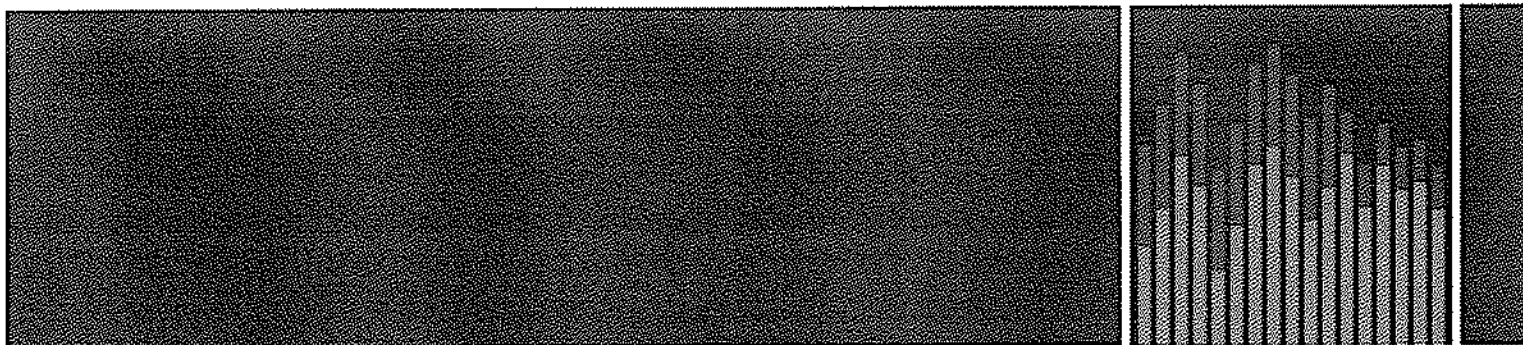
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